

TOWN OF MIAMI LAKES, FLORIDA

MINUTES ZONING COUNCIL MEETING January 24, 2006 7:00 p.m. Miami Lakes Middle School 6425 Miami Lakeway North Miami Lakes, Florida 33014

- 1. CALL TO ORDER:** Mayor Wayne Slaton called the meeting to order at 7:18 p.m.
- 2. ROLL CALL:** In addition to the Mayor, the following Council Members were present at roll call: Mary Collins, Peter Thomson, Vice Mayor Robert Meador, Roberto Alonso, Nancy Simon and Michael Pizzi. The following staff members were also present: Town Manager Alex Rey, Town Clerk, Debra Eastman and Town Attorney Nina Boniske and Christina Prkic of the law firm Weiss, Serota, Helfman, Pastoriza, Cole & Boniske, PA.
- 3. APPROVAL OF MINUTES:**

- A. December 20, 2005 LPA Meeting**
- B. December 20, 2005 Zoning Meeting**

Council Member Mary Collins made a motion to approve the minutes as presented. Council Member Roberto Alonso seconded the motion, which carried unanimously.

4. ORDINANCES – SECOND READING:

AN ORDINANCE OF THE TOWN PERTAINING TO THE LAND DEVELOPMENT CODE; AMENDING CHAPTER 33, ARTICLE XXXIII, AU, AGRICULTURAL DISTRICT AND CREATING ARTICLE 4.15 AU, AGRICULTURAL DISTRICT; PROVIDING FOR PERMITTED, CONDITIONAL AND ACCESSORY USES; DEVELOPMENT REGULATIONS; AND SITE PLAN REVIEW CRITERIA; ALL AS INCLUDED IN EXHIBIT “A” HEREIN; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

Town Attorney Nina Boniske read the ordinance by title into the record.

Council Member Mary Collins moved for adoption of the ordinance on second reading. Vice Mayor Robert Meador seconded the motion.

Town Planner, Maria Crowley presented the Council with various modifications made to the ordinance between first and second reading.

Council Member Nancy Simon expressed concern about the number of times in a thirty-day period a refrigerated container would be allowed to park in an area. Town Manager, Alex Rey noted that in the event that the situation is recurrent the ordinance addresses the issue through the usage of approvals and thus allows the administrative officials to limit the number of days. Council Member Nancy Simon further mentioned that she would not like for any language in the law to be arbitrary, but would like to see it be specific. Council Member Nancy Simon also expressed concern about the additional verbiage added to the ordinance and noted that she was informed that no additional verbiage could be added without the Council's prior agreement.

Mayor Slaton opened the public hearing. The following residents spoke before the Council:

- 1) **Mr. David P. Reiner** – Mr. Reiner spoke about the effect of the ordinance on the use of the property.
 - 2) **Ms. Maria Pol-Carballo** – Ms. Carballo asked that the Council review the agricultural setbacks.
 - 3) **Mr. Pedro Carballo** – Mr. Carballo disagreed with Mr. Reiner's comments and suggested that the Town has the right to re-write and enforce the charter and codes. He further requested that the 250' setback be enforced.
 - 4) **Dr. David Bennett** – Dr. Bennett spoke about the 250' setback established by the county and asked the Town to enforce it.
 - 5) **Mr. James Holland** – Mr. Holland spoke in support of the ordinance, but expressed concern about the additions to the ordinance and asked that the public be made aware of the changes prior to adoption.
 - 6) **Ms. Mirtha Mendez** – Ms. Mendez commented that the 250' setback must be enforced and questioned if the codes are selectively enforced. She expressed concern about the Town's failure to address the affected residents' concerns.
 - 7) **Mr. Lowell Dunn, II** – Mr. Dunn commented that his company willingly moved back their farming equipment 25'. He stated that there are no violations on his property.
 - 8) **Ms. Bennett** – Ms. Bennett spoke about a calf that died on the Dunn property close to her home.
 - 9) **Mr. Jose Enriquez** – Mr. Enriquez inquired about whether or not the Dunn property is contaminated.
- No further residents wishing to speak, the Mayor closed the public hearing.

Council Member Mary Collins questioned if the DERM report noting no contamination on the Dunn property exists in writing. Ralph Casals, Director of Public Works stated that he received information verbally from DERM regarding a violation issued on the Dunn property resulting from the grease from the vehicles found on the property. He added that he is awaiting the written report. Mr. Dunn stated that he received a verbal report regarding this matter.

Council Member Michael Pizzi reiterated Council Member Nancy Simon's concerns regarding the modifications made to the ordinance without the Council's direction. Mr. Rey noted that it is not unusual for staff to make changes between first and second readings. He noted that the two major changes include the farm operators' right to inform the Town if the setbacks are hampering their farm operations and the other section added addresses agricultural nuisances. He mentioned that the latter section was included as a result of residents' concerns. Mr. Rey noted that the language in the ordinance was inspired by a similar ordinance adopted by Southwest Ranches.

Maria Crowley provided clarifications of the ordinance as requested by Council Member Nancy Simon. Council Member Nancy Simon disagreed with the logic used to set the various setbacks mentioned in the ordinance. Council Member Michael Pizzi agreed with Council Member Nancy Simon's comments. Council Member Michael Pizzi further inquired about what difference the 50' setback as opposed to the 25' setback would make for the properties adjacent to the Dunn property. Mr. Rey responded that although it does not completely eliminate the problem, it improves the odor conditions and provides significant relief to the adjacent property owners.

Council Member Nancy Simon made a motion to increase the setback from 50' to 100'. The motion failed for lack of second.

Following discussion, the motion to adopt the ordinance on second reading as amended by Town staff carried 6 to 1 on roll call with Council Member Nancy Simon dissenting.

5. RESOLUTIONS:

Town Attorney, Nina Boniske explained the quasi-judicial proceedings. Town Clerk, Debra Eastman swore in the residents speaking before the Council.

A. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING AN EXTENSION OF THE CAPACITY RESERVATION FOR THE "MARRIOTT SPRINGHILL SUITES" FINAL PLAT. (Rey)

Town Attorney, Nina Boniske read the resolution by title into the record.

Council Member Roberto Alonso recused himself from the remaining agenda.

Maria Crowley noted the location of the property. She mentioned that the Town has previously approved the applicant's request for the plat, but the applicant is currently requesting an extension on the capacity reservation.

Melissa Tapanes represented the applicant at the hearing and spoke briefly about the property and the reason for the request for extension.

The Mayor opened the public hearing. There being no one wishing to speak, the Mayor closed the public hearing.

Council Member Michael Pizzi recalled the original application passed by the Community Council and noted that it was approved based on improved traffic conditions.

Council Member Peter Thompson made a motion to approve the resolution and accept the recommendations made by staff. Council Member Mary Collins seconded the motion.

Council Member Nancy Simon inquired about the traffic study conducted to ensure concurrency. Town Engineer, Russell Barnes mentioned the studies conducted. Vice Mayor Meador questioned if the money reserved by Marriott for the traffic improvements that will no longer be done could be used to fund other traffic improvements in the Town. Mr. Rey mentioned that the Marriott has not paid for the improvements, but would have to pay the appropriate impact fees and as a result the money would be flowing to the city and the condition will carry forward.

Following discussion the motion to approve carried unanimously on roll call.

The Mayor called for a recess at 9:30 pm.

The Mayor reconvened the meeting at 9:45 p.m. with the following Council Members present: Nancy Simon, Peter Thomson, Mary Collins, Michael Pizzi, Vice Mayor Robert Meador and Mayor Wayne Slaton.

B. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN PROVIDING FOR SITE PLAN APPROVAL FOR A FIVE STORY

OFFICE BUILDING OF +/- 70,000 SQUARE FEET; MODIFYING CONDITIONS OF MIAMI-DADE COUNTY RESOLUTION NO. CZAB6-14-00 TO PERMIT THE OFFICE BUILDING IN LIEU OF A PREVIOUSLY APPROVED HOTEL; AND TO PROVIDE FOR DEVELOPMENT IN ACCORDANCE WITH THE NEWLY APPROVED SITE PLAN, ALL FOR PROPERTY LOCATED AT APPROXIMATELY THE WEST SIDE OF N.W. 77TH COURT AND NORTH OF N.W. 158TH STREET. (Rey)

Town Attorney Nina Boniske read the resolution by title into the record.

Maria Crowley outlined the recommendation and condition modifications.

Mr. Javier Vazquez represented Aida Valiente, whose son David Valiente the contract purchaser of the subject property. Mr. Vazquez presented his client's application. He mentioned that the applicant has no objections to the conditions under which the application has been approved. Mr. Vazquez stated that he would have no problem with the Council attaching a condition to the approval allowing for an agreement for a payment in lieu of impact fees with impact fee credits, which would require a specific project within Miami Lakes where the money will be spent.

The Mayor opened the public hearing. No one wishing to speak, the Mayor closed the public hearing.

Council Member Mary Collins made a motion to approve the resolution with the conditions presented. Council Member Peter Thomson seconded the motion.

Maria Crowley read the condition offered by Mr. Vazquez into the record.

Vice Mayor Meador inquired about whether or not the condition of funds allocation would be a reality. Mr. Rey responded that, as with the other conditions, it would require the county's participation and agreement with the Town. He added that any improvements to the surrounding areas would benefit the marketability of the building.

Following discussion, the motion carried unanimously on roll call.

**C. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN
[APPROVING/DENYING] 1) A CONDITIONAL USE FILED IN
ACCORDANCE WITH DIVISION 3.3 OF THE TOWN CODE TO
WAIVE SECTION 33.150 OF THE TOWN CODE TO PERMIT A
PROPOSED SMOKING CLUB IN CONJUNCTION WITH AN
EXISTING CIGAR STORE WITH ON THE PREMISES SALE AND
CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN 2,500
FEET OF A SCHOOL OR RELIGIOUS FACILITY AND WITHIN**

1,500 FEET FROM OTHER EXISTING ALCOHOLIC BEVERAGE USES (THE “CONDITIONAL USE”); 2) A VARIANCE FILED IN ACCORDANCE WITH DIVISION 3.5 OF THE TOWN CODE TO WAIVE SECTION 33.124 OF THE TOWN CODE WHICH REQUIRES 13 PARKING SPACES, TO ALLOW A REDUCTION IN REQUIRED PARKING TO 10 PARKING SPACES; AND 3) A VARIANCE FILED IN ACCORDANCE WITH DIVISION 3.5 OF THE TOWN CODE TO WAIVE SECTION 33.95 OF THE TOWN CODE TO PERMIT A TENANT IN A SHOPPING CENTER TO LOCATE A PARAPET MOUNTED SIGN OFF PREMISES FROM WHERE THE PRODUCTS ARE SOLD IN THE BU-1A DISTRICT (COLLECTIVELY, THE “VARIANCES”), FOR PROPERTY LOCATED AT 15458 N.W. 77TH COURT, MIAMI LAKES, FLORIDA; PROVIDING FINDINGS. (Rey)

Council Member Michael Pizzi excused himself from the meeting.

Maria Crowley stated that the two variance requests require five votes from the Council. She also noted an error with the advertisement of the application. Council Member Peter Thomson suggested that the applicant could go forward with the hearing, but would need a vote of five in favor which could be difficult with only five Council Members in attendance and suggested that the item be deferred to the next zoning meeting.

Council Member Peter Thomson made a motion to defer the item to date certain February 21, 2006. Council Member Mary Collins seconded the motion.

Vice Mayor Robert Meador addressed the notice error and expressed his concern.

The motion to defer passed 4 to 1 with Vice Mayor Robert Meador dissenting.

6. FUTURE MEETING DATES:

**Regular Council Meeting, February 14, 2006, 6425 Miami Lakeway North
Zoning Council Meeting, February 21, 2006, 6425 Miami Lakeway North**

7. ADJOURNMENT:

The meeting adjourned at 10:33 p.m.

Approved this 14th day of February, 2006.

Mayor Wayne Slaton

Attest:

Debra E. Eastman, MMC
Town Clerk